

### **REMARKS**

Please reconsider the application in view of the foregoing amendments and the following remarks.

### **Status of Claims**

Claims 1-7 are pending in the present application. Claims 5-7 are withdrawn from consideration. Claim 1 is herein amended. No new matter has been presented.

### **Claim Rejections - 35 USC § 101**

The Examiner has rejected claims 1-4 under 35 U.S.C. §101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that **a §101 process must** (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. The Examiner contends that “**applicant's method steps** fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine.”

Applicants respectfully traverse this rejection.

It is respectfully submitted that the rejection is improper because claims 1-4 are not directed to method claims. Claims 1-4 are directed to system claims consisting of combination of devices such as working machine, a server, machine generation means, a communication device

etc. Therefore, claims 1-4 are directed to patent eligible subject matter under 35 U.S.C. §101.

Accordingly, applicants request that the rejection be withdrawn.

### **Claim Rejections - 35 USC § 103**

The Examiner has rejected claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over **Hanson et al** (US 6,954,689) in view of **Bernold** (WO/0052627). Applicants respectfully traverse this rejection.

#### **Independent claim 1**

A prima facie case of obviousness requires that the combination of the cited prior art, coupled with the general knowledge in the field, must provide all of the elements of the claimed invention.

Claim 1 is drawn to at least ... *identification information input means which inputs user identification information of one user who is using the working machine at the present time ....*

For example, as noted on page 14, lines 4-14 of the present specification, “[t]he communication controller 13 comprises a writable non volatile storage device 13A, and in this there are stored the names of the joint owners A through C of the working machine and identification codes for them (hereinafter termed the joint owner IDs), and the operational history and so on of the working machine 1 such as the working time, the cooling working

temperature, the work area, etc.. A console box 13B which comprises a keyboard and a display screen is connected to the communication controller 13. **This console box 13B is principally used for inputting to the communication controller 13 the joint owner ID of that one of the joint owners A through C who employs the operator , when the working machine 1 is being started.”** (emphasis added).

On page 4, lines 2-4 of the Office Action, it is alleged that Hanson discloses “identification information input means which inputs user identification information of one user who is using the working machine at the present time (i.e. receiving input information from a user of the working vehicle; col. 2, lines 13-21)[.]”

Applicants respectfully submit that the Office has erred substantively as to the factual findings based on the teachings of Hanson. More specifically, Hanson teaches that if the operator 202 (Fig. 4) becomes aware or senses something is wrong with a vehicle, but the details of what operator 202 senses (i.e. sees, feels, hears or smells) are not reported by the mechanical sensors even though they may be valuable in early detection or diagnostic isolation of problems, the operator of the vehicle through interface 220 (Fig. 4) can provide the information regarding a particular problem when it occurs with the vehicle or when the operator 202 senses a potential problem.

**In other words**, the vehicle operator 202 acts as a diagnostic sensor allowing the operator 202 to provide diagnostic information when a particular problem occurs with the vehicle or when the operator 202 senses a potential problem. **However**, the operator interface 220 is NOT configured to receive of an identification of an individual user who is using the working machine at the instant time, i.e., the operator who is providing the information regarding this particular problem. That is, Hanson does not distinguish the user itself only that a user can provide to provide a specific diagnostic information when a problem occurs with the vehicle or when the operator senses a potential problem.

In contrast, in the claimed invention, the identification information input means receives inputs such as the name and identification code of an operator who is using the working machine at the present time.

Therefore, Hanson does not disclose at least an *identification information input means which inputs user identification information of one user who is using the working machine at the present time* as recited in claim 1.

**Claim 1 is also drawn to...** *a communication device ... which transmits to the server the user identification information which has been inputted by the identification information input means ... communication control means ... which receives the user identification information and the machine information from the working machine and transmits a warning to the plurality*

*of user terminals; usage state decision means which detects by which user usage of the working machine which constitutes a problem is performed, based on the user identification information and the machine information received by the communication control means ....*

Because Hanson does not disclose at least an *identification information input means* which inputs user identification information of one user who is using the working machine at the present time, **it necessarily fails to disclose a communication device ... which transmits to the server the user identification information which has been inputted by the identification information input means ... communication control means ... which receives the user identification information and the machine information from the working machine and transmits a warning to the plurality of user terminals; usage state decision means which detects by which user usage of the working machine which constitutes a problem is performed, based on the user identification information and the machine information received by the communication control means ....**

Furthermore, on page 4, last line to page 5, lines 1-9 of the Office Action, it is acknowledged that Hanson fails to explicitly disclose warning generation means which generates the warning in response to the usage state decision means, and makes the communication device transmit the warning to the plurality of user terminals.

Nonetheless, it is alleged that Bernold discloses a crane monitoring and data retrieval system which generates and communicate an alarm event to a user interface device (pages 31 -32 of Bernold). Therefore, the Office contends that it would have been obvious to a person of ordinary skill in the art to modify the disclosures of Hanson et al to include the teachings of Bernold in order to detect occurrence of hazardous dragging and extrication events of the working vehicle.

Applicants respectfully submit that the Office has also erred substantively as to the factual findings based on the teachings of Bernold. More specifically, Bernold discloses a warning generation means (control unit 40) which processes and stores data when an alarm event is detected by logging data from sensors into non-volatile storage. This data is stored continuously until the alarm event clears. The warning generation means (control unit 40) also has an ability to transmit this data from the non-volatile memory unit to a personal computer. However, the warning generation means (control unit) in Bernold does NOT generate the alarm in response to an alarm (problem) condition that results as a result of the usage of the working machine based on the user's identification information.

In view of the foregoing, Applicants respectfully submit that Bernold does not disclose *warning generation means which generates the warning in response to the usage state decision means, and makes the communication device transmit the warning to the plurality of user terminals*. Furthermore, Bernold also fails to remedy the deficit of Hanson.

Because the proposed combination of afore-cited references does not teach or suggest all of the claimed elements and limitations in claim 1, Applicant's respectfully submit that claims 1-4 would not have been obvious over these references. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. 103 be withdrawn.

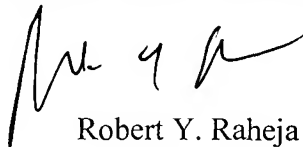
**Conclusion**

The Claims have been shown to be allowable over the prior art. Applicants believe that this paper is responsive to each and every ground of rejection cited in the Office Action dated **October 14, 2009**, and respectfully request favorable action in this application. The Examiner is invited to telephone the undersigned, applicants' attorney of record, to facilitate advancement of the present application.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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